

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JEFFREY HARTMAN,)	
)	
Claimant,)	
v.)	IC 2003-013172
)	
WAL-MART STORES, INC.,)	
)	
Employer,)	ORDER DENYING
and)	RECONSIDERATION
)	
AMERICAN HOME ASSURANCE COMPANY,)	
)	Filed December 14, 2007
Surety,)	
and)	
)	
STATE OF IDAHO, INDUSTRIAL)	
SPECIAL INDEMNITY FUND,)	
)	
Defendants.)	
)	

On October 19, 2007, Claimant filed a motion requesting the reconsideration of the Industrial Commission's decision filed October 1, 2007, in the above referenced case. Defendants Wal-Mart Stores and American Home Assurance Company filed a response on November 2, 2007. Defendant ISIF filed a response on November 5, 2007. Claimant did not file a reply.

In the motion, Claimant asks for reconsideration of the Commission's conclusion that Claimant failed to prove that the condition for which he seeks benefits was caused or aggravated by his industrial accident. Claimant argues that the determination of causation was erroneous, that Dr. Gooch's opinion on causation did not truly track the medical records, and Dr. Gooch's opinion was based on testimony taken out of context and not based on the entirety of her testimony or the legal

standard of causation.

Defendants and ISIF aver that the decision is founded upon substantial and competent evidence and Claimant is merely asking the Commission to review the record again.

Claimant suffered a brain injury at an early age and was diagnosed with cerebral palsy. On January 28, 2002, Claimant was working as a cashier for Employer when he tripped and fell onto his right elbow. Dr. Gooch began treating Claimant on May 13, 2002, but it was not until her February 7, 2006 deposition that she learned Claimant has been complaining of significant spinal pain for about two years before his accident and that he had a past history of seizures.

Claimant argues that the Commission misunderstood Dr. Gooch's testimony. The Commission's analysis took into account all admitted evidence, including the records and testimony of Dr. Gooch. The Commission found that while Dr. Gooch initially believed that temporally Claimant's accident may have been associated with his development of severe whole body spasms, upon receipt of more background information she could not say on a more probable than not basis what caused Claimant's spasms. The Commission's decision found that there were many other credible reasons for Claimant's deterioration other than a contused elbow that no other physician had ever seen or heard of as causing an increase in spasticity.

Claimant very carefully lays out his argument and supporting facts. As stated in the decision, this matter involved complicated medical issues, a voluminous record, and a number of witnesses. But every individual report and statement will not be readdressed and commented on by the Commission in this order on reconsideration. The Commission was aware of the applicable arguments and facts that resulted in the final conclusions. The Commission reviewed and weighed, as a whole, the medical reports and evidence presented.

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Although Claimant disagrees with the Commission's findings and conclusions, the facts and arguments raised by Claimant's request for reconsideration were considered and decided by the Commission in the original decision. The Commission's decision of October 1, 2007, in the above referenced case, is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Claimant's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this _14th___ day of December, 2007.

INDUSTRIAL COMMISSION

_____/s/_____
James F. Kile, Chairman

_____/s/_____
R.D. Maynard, Commissioner

_____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on __14__ day of December, 2007, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States Mail upon each of the following:

STEPHEN A MEIKLE
PO BOX 51137
IDAHO FALLS ID 83405-1137

ALAN K HULL
PO BOX 7426
BOISE ID 83707-7426

THOMAS B HIGH
PO BOX 366
TWINS FALLS ID 83303-0366

____/s/_____